



Office of Mayor Miro Weinberger

September 27, 2019

VIA EMAIL & U.S. MAIL

BTC Mall Associates LLC
c/o Brookfield Properties
250 Vesey Street, 15th Floor
New York, NY 10281
Attention: Chase Martin, Senior Vice President

Re: CityPlace Burlington – Encumbrance License and Development Agreement

Dear Chase,

As you are aware, we desire to work with you to facilitate the successful redevelopment of CityPlace Burlington to create new homes, jobs and public revenues in downtown Burlington. However, the lack of progress over the past year is deeply frustrating, and your lack of clear progress on a revised project since July is threatening the viability of our long-planned collaboration. To preserve our agreement and restore confidence in the Project, the City demands that BTC Mall Associates LLC ("BTC") take immediate actions within the timeframes set forth below.

Encumbrance License

As an initial matter, BTC, acting through its construction manager and agent, PC Construction Company ("PCC"), is in default of its obligations under the License Agreement dated November 16, 2017 with regard to the project's encumbrance of portions of Bank St. and Cherry St. (the ("Encumbrance License")). The City has issued a default letter to PCC under separate cover, invoking the City's right to "immediately" revoke the license "at the sole discretion of the City should PCC discontinue use of the Premises which involves a protracted absence from the project for more than 4 weeks without justification."

The City demands immediate removal of the concrete barriers and other encumbrances now on public property, and the restoration of the streets, sidewalks and other public property to their prior safe and sound condition. As stated in the Encumbrance License, "Upon revocation, PCC shall promptly remove at its own expense all equipment and other materials or obstructions placed upon the Premises and shall cease to obstruct the Premises. Such removal shall be conducted with reasonable speed and diligence; time for prompt removal is of the essence in the event of revocation. In the event PCC fails to promptly remove such obstructions, said obstructions may be removed by the City and PCC shall be liable for all expenses and costs associated with such removal, including reasonable attorney's fees."

The City acknowledges that BTC has worked with the Department of Public Works to develop a temporary parking plan (the "Temporary Parking Plan") that will be fully implemented no later than October 31, 2019. By June 30, 2020, BTC must fully restore those portions of Bank St. and Cherry St. that

it is presently encumbering, provided that if BTC complies with the terms set forth below in this letter , the City will consider an extension of the encumbrance term in order to facilitate a revised project.

Development Agreement

BTC is not in compliance with numerous obligations under the Development Agreement dated as of October 26, 2017 made by and between the City, and BTC,, as amended by Letter Agreement dated August 27, 2018 and fully executed on September 7, 2018 (as amended, the "Development Agreement"; capitalized terms used in this letter and not defined shall have the meanings given in the Development Agreement).

Most significantly, BTC failed to continue construction of the Project following demolition of the mall and parking garage in contravention of the requirements in the Development Agreement that BTC diligently prosecute construction to completion, and contrary to the assertion made by Rouse Properties, LLC (predecessor-in-interest to Brookfield Properties), in a letter to City dated October 26, 2017, which stated in part "[t]he undersigned ("Rouse"), the general partner of the sole member of the managing member of the joint venture that owns BTC Mall Associates, LLC (the "Owner") hereby states...that it has entered into a LLC joint venture agreement with BDM Associates, LLC, dated as of June 23, 2017 that requires Rouse, among other things, to invest equity in the Owner that may be used to finance the construction of the Project. The Owner plans to commence construction in reliance on the available equity financing. The available equity financing may be used by the Owner as needed to fund construction until such time as the Owner secures debt financing for the Project."

Significantly, as you know, the City is concerned that BTC's construction delays have endangered its ability to construct the Public Improvements in sufficient time to be eligible for reimbursement in accordance with the Development Agreement and in compliance with the statutory requirements applicable to the City's expenditure of funds in the Waterfront TIF District (which are referenced in the Development Agreement). In order to salvage all of the hard work that has gone into this project, the City requires BTC to take the actions described below by the deadlines established below.

On or before October 7, 2019:

1. Pay in full the following amounts due to the City:
 - a. \$30,000 to Burlington Electric Department, which is amount that BTC pledged towards the performance of due diligence associated with the District Energy project.
 - b. \$50,000 to the City of Burlington, which is the amount that BTC agreed to pay the City to cover its administrative costs associated with BTC's construction delay, at the rate of \$10,000 per month, for the months of May through September 2019.
 - c. \$122,000 to fund a holiday parking initiative at a rate equal to the successful 2018 holiday parking initiative, (\$72,000 parking subsidy plus a \$50,000 promotional budget for use by the Church Street Marketplace and Burlington Business Association, for a total of \$122,000), as promised to the City Council at BTC's appearance before the City Council on August 26, 2019.
2. Commence implementation of the Temporary Parking Plan, and provide evidence of the schedule and contract associated with that work.
3. Confirm in writing your plan and schedule to open and maintain the public restrooms in the remaining portions of the "mall", as required by the Development Agreement, no later than November 25, 2019 (acknowledging the need for time to accomplish the necessary renovations).

Before October 28, 2019:

1. Present to me and to the City's development team the following:
 - a. An updated development plan and proof of concept for the "center block" of the property.
 - b. A feasible plan documenting BTC's commitment to contract for \$50,000,000 of private improvements on the property by December 1, 2019, as required to preserve the City's ability to expend funds in the Waterfront TIF District for the benefit of the property.
 - c. A plan and development schedule for the redevelopment of the former Macy's building.
 - d. A plan to retain the commitment of the University of Vermont Medical Center to lease approximately 100,000 sq. ft. of office space and relocate its business offices to the property.
2. Pay all renewal fees associated with the Encumbrance License for a period expiring on the earlier of: (a) the date on which Bank St. and Cherry St. are fully restored; or (b) the effective date of any new encumbrance agreement associated with the project.

On October 28, 2019:

1. BTC's project development team will appear before the City Council to present a report regarding the foregoing and to report, generally, on the status of the project.

If the milestones established above are met, then a range of subsequent actions by both the City and BTC will be necessary to resume our collaborative efforts including, without limitation, a presentation to the Vermont Economic Progress Council during the month of December 2019 to demonstrate how BTC's commitment to contract for \$50,000,000 of private improvements on the property has preserved the City's ability to expend funds in the Waterfront TIF District. In addition, it would be necessary for the parties to amend the Development Agreement and to amend or replace the Encumbrance License to reflect the revised project description, revised project schedule, and other terms.

Sincerely,



Miro Weinberger
Mayor, City of Burlington

c.c. Jeffry Glassberg (via email only)
Jeremy Farkas, Esq. (via email only)
Richard Haesler, Esq. (via email only)
Donald Sinex (via email only)
Brian Dunkiel, Esq. (via email only)